

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE WORLD TRADE CENTER  
DISASTER SITE LITIGATION

**ALFREDO RIVERA AND CONSTANTINA  
RIVERA,**

Plaintiffs,

- against -

**THE CITY OF NEW YORK, AND  
AMEC CONSTRUCTION MANAGEMENT,  
INC., et al.,**

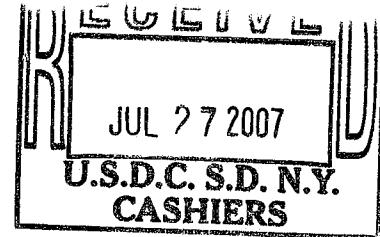
Defendants.

**21 MC 100 (AKH)**

**DOCKET NO.  
07 CV 6802**

**Judge Alvin K. Hellerstein  
CHECK OFF ("SHORT FORM")  
COMPLAINT  
RELATED TO THE  
MASTER COMPLAINT**

**PLAINTIFF DEMANDS A TRIAL BY JURY**



By Order of the Honorable Alvin K. Hellerstein, United States District Judge, dated June 22, 2006, ("the Order"), Master Complaints for all Plaintiffs were filed on August 18, 2006.

### NOTICE OF ADOPTION

All headings and paragraphs in the Master Complaints are applicable to and are adopted by the instant Plaintiff(s) as if fully set forth herein in addition to those paragraphs specific to the individual Plaintiff(s), which are listed below. These are marked with an "X" if applicable to the instant Plaintiff(s), and specific case information is set forth, as needed, below.

Plaintiff, by his attorneys SULLIVAN PAPAIN BLOCK MCGRATH & CANNANO, P.C. complaining of Defendants, respectfully alleges:

#### I. PARTIES

##### PLAINTIFF(S)

1.  Plaintiff ALFREDO RIVERA (hereinafter the "Injured Plaintiff"), is an individual and a citizen of New York residing at 4 Sarvis Lane, Newburgh, New York 12550.
  
2. Alternatively,  \_\_\_\_\_ is the \_\_\_\_\_ of Decedent \_\_\_\_\_, and brings this claim in his (her) capacity as of the Estate of \_\_\_\_\_.
  
3.  Plaintiff, CONSTANTINA RIVERA (hereinafter the "Derivative Plaintiff"), is an individual and a citizen of New York residing at 4 Sarvis Lane, Newburgh, New York 12550, and has the following relationship to the Injured Plaintiff:

**X** Plaintiff CONSTANTINA RIVERA at all relevant times herein, is and has been lawfully married to Plaintiff ALFREDO RIVERA, and brings this derivative action for her loss due to the injuries sustained by her husband, Plaintiff ALFREDO RIVERA.

Parent     Child     Other: \_\_\_\_\_

4. In the period from September 11, 2001 and thereafter, the injured Plaintiff worked for the New York City Fire Department as a Firefighter at:

*Please be as specific as possible when filling in the following dates and locations*

**X** The World Trade Center Site

Location(s) (i.e., building, quadrant, etc.) throughout the four quadrants.

From September 11, 2001 and thereafter, including September 11<sup>th</sup> (24 hour shift), and approximately 7 12 hour shifts throughout September 2001, as well as additional shifts in October, November and December 2001, if not thereafter. The Injured Plaintiff worked a total of approximately 25 shifts.

The New York City Medical Examiner's Office

From on or about \_\_\_\_\_ until \_\_\_\_\_;  
Approximately \_\_\_\_\_ hours per day; for  
Approximately \_\_\_\_\_ days total.

The Fresh Kills Landfill

From on or about \_\_\_\_\_ until \_\_\_\_\_;  
Approximately \_\_\_\_\_ hours per day; for  
Approximately \_\_\_\_\_ days total.

The Barge

From on or about \_\_\_\_\_ until \_\_\_\_\_;  
Approximately \_\_\_\_\_ hours per day; for  
Approximately \_\_\_\_\_ days total.

**Other:**\* For injured plaintiffs who worked at Non-WTC Site building or location. The injured plaintiff worked at the address/location, for the dates alleged, for the hours per day, for the total days, and for the employer, as specified below:

From on or about \_\_\_\_\_ until \_\_\_\_\_;  
Approximately \_\_\_\_\_ hours per day; for  
Approximately \_\_\_\_\_ days total;  
Name and Address of Non-WTC Site Building/Worksite: \_\_\_\_\_

\*Continue this information on a separate sheet of paper if necessary. If more space is needed to specify "Other" locations, please annex a separate sheet of paper with the information.

5. Injured Plaintiff

**X** Was exposed to and breathed noxious fumes on all dates, at the site(s) indicated above;

**X** Was exposed to and inhaled or ingested toxic substances and particulates on all dates at the site(s) indicated above;

**X** Was exposed to and absorbed or touched toxic or caustic substances on all dates at the site(s) indicated above;

Other: \_\_\_\_\_

*Please read this document carefully.*

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6. Injured Plaintiff

Has not made a claim to the Victim Compensation Fund. Pursuant to §405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. § 40101, the issue of waiver is inapplicable.

Made a claim to the Victim Compensation Fund that was denied. Pursuant to § 405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. § 40101, the issue of waiver is inapplicable.

Made a claim to the Victim Compensation Fund, that was subsequently withdrawn by Ground-Zero Plaintiff. Pursuant to § 405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. § 40101, the issue of waiver is inapplicable.

Made a claim to the Victim Compensation Fund that was granted. Pursuant to § 405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. § 40101, Ground Zero-Plaintiff has waived her/his right(s) to pursue any further legal action for the injuries identified in said claim.

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**B. DEFENDANT(S)**

7. The following is a list of all Defendant(s) named in the Master Complaint. If checked, all paragraphs pertaining to that Defendant are deemed pleaded herein.

**X THE CITY OF NEW YORK**

A Notice of Claim was timely filed and served on \_\_\_\_\_ and  
 pursuant to General Municipal Law §50-h  
the CITY held a hearing on \_\_\_\_\_ (OR)  
 The City has yet to hold a hearing as required by General Municipal Law §50-h  
 More than thirty days have passed and the City has not adjusted the claim  
(OR)  
**X** An Order to Show Cause application to  
**X** deem Plaintiff's (Plaintiffs') Notice of Claim timely filed, or in the alternative to grant Plaintiff(s) leave to file a late Notice of Claim *Nunc Pro Tunc* (for leave to file a late Notice of Claim *Nunc Pro Tunc*) has been filed and a determination **X** is pending  
 Granting petition was made on \_\_\_\_\_  
 Denying petition was made on \_\_\_\_\_

 **PORT AUTHORITY OF NEW YORK AND NEW JERSEY ["PORT AUTHORITY"]**

A Notice of Claim was filed and served pursuant to Chapter 179, §7 of The Unconsolidated Laws of the State of New York on  
 More than sixty days have elapsed since the Notice of Claim was filed, (and)  
 the PORT AUTHORITY has adjusted this claim  
 the PORT AUTHORITY has not adjusted this claim.

1 WORLD TRADE CENTER, LLC  
 1 WTC HOLDINGS, LLC  
 2 WORLD TRADE CENTER, LLC  
 2 WTC HOLDINGS, LLC  
 4 WORLD TRADE CENTER, LLC  
 4 WTC HOLDINGS, LLC  
 5 WORLD TRADE CENTER, LLC

5 WTC HOLDINGS, LLC

**X AMEC CONSTRUCTION MANAGEMENT, INC.**

7 WORLD TRADE COMPANY, L.P.  
 A RUSSO WRECKING  
 ABM INDUSTRIES, INC.  
 ABM JANITORIAL NORTHEAST, INC.  
**X AMEC EARTH & ENVIRONMENTAL, INC.**  
 ALFREDO CORTESE SPECIALIZED HAULING, LLC, INC.  
 ATLANTIC HEYDT CORP  
 BECHTEL ASSOCIATES PROFESSIONAL CORPORATION  
 BECHTEL CONSTRUCTION, INC.  
 BECHTEL CORPORATION  
 BECHTEL ENVIRONMENTAL, INC.  
 BERKEL & COMPANY, CONTRACTORS, INC.  
 BIG APPLE WRECKING & CONSTRUCTION CORP  
**X BOVIS LEND LEASE, INC.**  
**X BOVIS LEND LEASE LMB, INC.**  
 BREEZE CARTING CORP  
 BREEZE NATIONAL, INC.  
 BRER-FOUR TRANSPORTATION CORP.  
 BURO HAPOLD CONSULTING ENGINEERS, P.C.  
 C.B. CONTRACTING CORP  
 CANRON CONSTRUCTION CORP  
 CANTOR SEINUK GROUP  
 CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.  
 CORD CONTRACTING CO., INC  
 CRAIG TEST BORING COMPANY INC.  
 DAKOTA DEMO-TECH  
 DIAMOND POINT EXCAVATING CORP  
 DIEGO CONSTRUCTION, INC.  
 DIVERSIFIED CARTING, INC.  
 DMT ENTERPRISE, INC.  
 D'ONOFRIO GENERAL CONTRACTORS CORP  
 EAGLE LEASING & INDUSTRIAL SUPPLY

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EAGLE ONE ROOFING CONTRACTORS INC.  
 EAGLE SCAFFOLDING CO  
 EJ DAVIES, INC.  
 EN-TECH CORP  
 ET ENVIRONMENTAL  
 EVERGREEN RECYCLING OF CORONA  
 EWELL W. FINLEY, P.C.  
 EXECUTIVE MEDICAL SERVICES, P.C.  
 F&G MECHANICAL, INC.  
 FLEET TRUCKING, INC.  
 FRANCIS A. LEE COMPANY, A CORPORATION  
 FTI TRUCKING  
 GILSANZ MURRAY STEFICEK, LLP  
 GOLDSTEIN ASSOCIATES CONSULTING ENGINEERS, PLLC  
 HALLEN WELDING SERVICE, INC.  
 H.P. ENVIRONMENTAL  
 KOCH SKANSKA INC.  
 LAQUILA CONSTRUCTION INC  
 LASTRADA GENERAL CONTRACTING CORP  
 LESLIE E. ROBERTSON ASSOCIATES CONSULTING ENGINEER P.C.  
 LIBERTY MUTUAL GROUP  
 LOCKWOOD KESSLER & BARTLETT, INC.  
 LUCIUS PITKIN, INC  
 LZA TECH-DIV OF THORTON TOMASETTI  
 MANAFORT BROTHERS, INC.  
 MAZZOCCHI WRECKING, INC.  
 MERIDIAN CONSTRUCTION CORP.  
 MORETRENCH AMERICAN CORP.  
 MRA ENGINEERING P.C.  
 MUESER RUTLEDGE CONSULTING ENGINEERS  
 NACIREMA INDUSTRIES INCORPORATED  
 NEW YORK CRANE & EQUIPMENT CORP.  
 NICHOLSON CONSTRUCTION COMPANY  
 OLYMPIC PLUMBING & HEATING  
 PETER SCALAMANDRE & SONS, INC.  
 PINNACLE ENVIRONMENTAL CORP  
 PLAZA CONSTRUCTION CORP.

PLAZA CONSTRUCTION MANAGEMENT CORP.  
 PRO SAFETY SERVICES, LLC  
 PT & L CONTRACTING CORP  
 REGIONAL SCAFFOLD & HOISTING CO, INC.  
 ROBER SILMAN ASSOCIATES  
 ROBERT L GEROSA, INC  
 RODAR ENTERPRISES, INC.  
 ROYAL GM INC.  
 SAB TRUCKING INC.  
 SAFEWAY ENVIRONMENTAL CORP  
 SEASONS INDUSTRIAL CONTRACTING  
 SEMCOR EQUIPMENT & MANUFACTURING CORP.  
 SILVERITE CONTRACTORS  
 SILVERSTEIN PROPERTIES  
 SILVERSTEIN PROPERTIES, INC.  
 SILVERSTEIN WTC FACILITY MANAGER, LLC  
 SILVERSTEIN WTC, LLC  
 SILVERSTEIN WTC MANAGEMENT CO., LLC  
 SILVERSTEIN WTC PROPERTIES, LLC  
 SILVERSTEIN DEVELOPMENT CORP.  
 SILVERSTEIN WTC PROPERTIES LLC  
 SIMPSON GUMPERTZ & HEGER INC  
 SKIDMORE OWINGS & MERRILL LLP  
 SURVIAIR  
 TISHMAN INTERIORS CORPORATION,  
 TISHMAN SPEYER PROPERTIES,  
 TISHMAN CONSTRUCTION CORPORATION OF MANHATTAN  
 TISHMAN CONSTRUCTION CORPORATION OF NEW YORK  
 THORNTON-TOMASETTI GROUP, INC.  
 TORRETTA TRUCKING, INC  
 TOTAL SAFETY CONSULTING, L.L.C  
 TUCCI EQUIPMENT RENTAL CORP  
 TULLY CONSTRUCTION CO., INC.  
 TULLY ENVIRONMENTAL INC.  
 TULLY INDUSTRIES, INC.  
 TURNER CONSTRUCTION CO.

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TURNER CONSTRUCTION COMPANY  
 TURNER CONSTRUCTION INTERNATIONAL,  
 LLC  
 TURNER/PLAZA, A JOINT VENTURE  
 ULTIMATE DEMOLITIONS/CS HAULING  
 VERIZON NEW YORK INC,  
 VOLLMER ASSOCIATES LLP  
 W HARRIS & SONS INC  
 WEEKS MARINE, INC.  
 WEIDLINGER ASSOCIATES, CONSULTING  
 ENGINEERS, P.C.

WHITNEY CONTRACTING INC.  
 WOLKOW-BRAKER ROOFING CORP  
 WORLD TRADE CENTER PROPERTIES, LLC  
 WSP CANTOR SEINUK  
 YANNUZZI & SONS INC  
 YONKERS CONTRACTING COMPANY, INC.  
 YORK HUNTER CONSTRUCTION, LLC

ZIEGE  
 OTHER:

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Non-WTC Site Building Owner

Name: \_\_\_\_\_  
 Business/Service Address: \_\_\_\_\_  
 Building/Worksite Address: \_\_\_\_\_

Non-WTC Site Lessee

Name: \_\_\_\_\_  
 Business/Service Address: \_\_\_\_\_  
 Building/Worksite Address: \_\_\_\_\_

Non-WTC Site Building Managing Agent

Name: \_\_\_\_\_  
 Business/Service Address: \_\_\_\_\_  
 Building/Worksite Address: \_\_\_\_\_

## II. JURISDICTION

8. The Court's jurisdiction over the subject matter of this action is:

Founded upon Federal Question Jurisdiction; specifically;  Air Transport Safety & System Stabilization Act of 2001.

## III CAUSES OF ACTION

Plaintiff(s) seeks damages against the above named defendants based upon the following theories of liability, and asserts each element necessary to establish such a claim under the applicable substantive law:

|                                     |   |                                     |   |
|-------------------------------------|---|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Breach of the defendants' duties and obligations pursuant to the New York State Labor Law(s) including §§ 200 and 240 | <input checked="" type="checkbox"/> | Common Law Negligence, including allegations of Fraud and Misrepresentation   |
| <input checked="" type="checkbox"/> | Breach of the defendants' duties and obligations pursuant to the New York State Labor Law 241(6)                      | <input checked="" type="checkbox"/> | Air Quality;<br><input checked="" type="checkbox"/> Effectiveness of Mask Provided;<br><input checked="" type="checkbox"/> Effectiveness of Other Safety Equipment Provided |

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|                                     |   |                                     |   |
|-------------------------------------|---|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Pursuant to New York General Municipal Law §205-a |                                     | (specify: _____);<br><input type="checkbox"/> Other(specify): _____ |
| <input type="checkbox"/>            | Pursuant to New York General Municipal Law §205-e | <input type="checkbox"/>            | Wrongful Death  |
|                                     |   | <input checked="" type="checkbox"/> | Loss of Services/Loss of Consortium for Derivative Plaintiff        |
|                                     |   | <input type="checkbox"/>            | Other: _____  |

#### **IV CAUSATION, INJURY AND DAMAGE**

9. As a direct and proximate result of defendant's culpable actions in the rescue and/or recovery and/or construction, renovation, alteration, demolition and all work performed at the premises, the Injured Plaintiff sustained (including, but not limited to) the following injuries:

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|                                     |  |                          |   |
|-------------------------------------|--|--------------------------|---|
| <input type="checkbox"/>            | Cancer Injury:<br>Date of onset:<br>Date physician first connected this injury to WTC work:  | <input type="checkbox"/> | Cardiovascular Injury:<br>Date of onset:<br>Date physician first connected this injury to WTC work: |
| <input checked="" type="checkbox"/> | <p><b>Respiratory Injury:</b> severe unexplained coughing, the formation of lung nodules in the right middle lobe and left lower lobe, acid reflux and other injuries, the full extent of which have not yet been determined.</p> <p><b>Date of onset:</b> On about October of 2006, Plaintiff <b>ALFREDO RIVERA</b> began to experience severe coughing. The plaintiff <b>ALFREDO RIVERA</b> was present at the World Trade Center site on September 11, 2001, and thereafter. During that time he was exposed to toxic substances and airborne contaminants. Plaintiff <b>ALFREDO RIVERA</b>, as a result of the latent effects of exposure to toxic substances and airborne contaminants upon and within his body, did not discover, nor with the exercise of reasonable diligence could he have discovered, his injury until on or about October 2006, when he sought treatment with a pulmonologist for the first time ever, and underwent testing. Plaintiff <b>ALFREDO RIVERA</b> was then diagnosed with acid reflux, lung nodules and was prescribed Nexium. However, when the severe coughing failed to subside, certain of Plaintiff's physicians including Dr. Prezant believed the coughing may not be caused by acid reflux but by another cause, and Plaintiff's physicians continue to search for the cause of the cough. Thus Plaintiff has not yet discovered all causes of his condition and injuries nor the full extent of his injuries.</p> <p><b>Date physician first connected this injury to WTC work:</b> On or about October 2006 and thereafter.</p> | <input type="checkbox"/> | Fear of Cancer<br>Date of onset:<br>Date physician first connected this injury to WTC work:         |
| <input checked="" type="checkbox"/> | <p><b>Digestive Injury:</b> Acid reflux</p> <p><b>Date of onset:</b> On about October of 2006, Plaintiff <b>ALFREDO RIVERA</b> began to</p>  | <input type="checkbox"/> | Other Injury:<br>Date of onset:<br>Date physician first connected this injury                       |

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|   |  |                           |
|---|--|---------------------------|
| <p>experience severe coughing. The plaintiff <b>ALFREDO RIVERA</b> was present at the World Trade Center site on September 11, 2001, and thereafter. During that time he was exposed to toxic substances and airborne contaminants. Plaintiff <b>ALFREDO RIVERA</b>, as a result of the latent effects of exposure to toxic substances and airborne contaminants upon and within his body, did not discover, nor with the exercise of reasonable diligence could he have discovered, his injury until on or about October 2006, when he sought treatment with a pulmonologist for the first time ever, and underwent testing. Plaintiff <b>ALFREDO RIVERA</b> was then diagnosed with acid reflux, lung nodules and was prescribed Nexium. However, when the severe coughing failed to subside, certain of Plaintiff's physicians including Dr. Prezant believed the coughing may not be caused by acid reflux but by another cause, and Plaintiff's physicians continue to search for the cause of the cough. Thus Plaintiff has not yet discovered all causes of his condition and injuries nor the full extent of his injuries.</p> <p><b>Date physician first connected this injury to WTC work:</b> On or about October 2006 and thereafter.</p> |  | <p>to WTC work: _____</p> |
|---|--|---------------------------|

*NOTE: The foregoing is NOT an exhaustive list of injuries that may be alleged.*

10. As a direct and proximate result of the injuries identified in paragraph "1", above, the Ground Zero-Plaintiff has in the past suffered and/or will in the future suffer the following compensable damages:

|   |   |
|---|---|
| <p><input checked="" type="checkbox"/> Pain and suffering</p> <p><input checked="" type="checkbox"/> Loss of the enjoyment of life</p> <p><input checked="" type="checkbox"/> Loss of earnings and/or impairment of earning capacity</p> <p><input checked="" type="checkbox"/> Loss of retirement benefits/diminution of retirement benefits</p> | <p><input checked="" type="checkbox"/> Expenses for medical care, treatment, and rehabilitation</p> <p><input checked="" type="checkbox"/> Other:</p> <p><input checked="" type="checkbox"/> Mental anguish</p> <p><input checked="" type="checkbox"/> Disability</p> <p><input type="checkbox"/> Medical monitoring</p> <p><input type="checkbox"/> Other: _____</p> |
|---|---|

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11. As a direct and proximate result of the injuries described *supra*, the derivative plaintiff(s), if any, have in the past suffered and/or will in the future suffer a loss of the love, society, companionship, services, affection, and support of the plaintiff and such other losses, injuries and damages for which compensation is legally appropriate.

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**WHEREFORE**, plaintiff(s) respectfully pray that the Court enter judgment in his/her/their favor and against defendant(s) for damages, costs of suit and such other, further and different relief as may be just and appropriate.

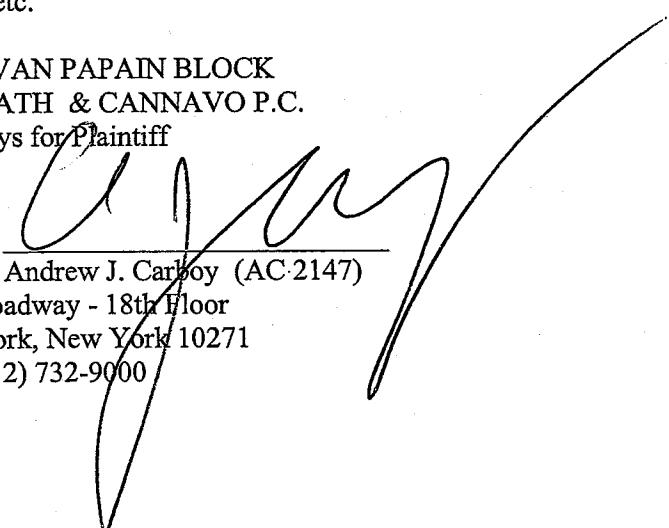
**Plaintiffs demand that all issues of fact in this case be tried before a properly empanelled jury.**

Dated: New York, New York  
July 27, 2007

Yours, etc.

SULLIVAN PAPAIN BLOCK  
MCGRATH & CANNAVO P.C.  
Attorneys for Plaintiff

BY:

  
Andrew J. Carboy (AC-2147)  
120 Broadway - 18th Floor  
New York, New York 10271  
Tel: (212) 732-9000

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